Georgia State University Law Review

Volume 22
Issue 1 *Fall 2005*

Article 20

March 2012

HEALTH Women's Right to Know Act: Require Certain Types of Identification to be Presented in Order for a Physician to Perform an Abortion; Change Provisions Relating to Required Participation by or Notice to Parents, Guardians, and Others and Court Proceedings for Waiver of Such Provisions; Provide That Abortions Must Be Performed in Certain Facilities and By Certain Persons; Provide for Certain Reports; Provide for Certain Forms; Provide for Certain Reports by the Department of Human Resources; Provide for Penalties and Remedies for Failure to Provide Such Reports; Enact the "Woman's Right to Know Act";

Provide for a Short Title; Provide for Definitions; Require That a Female Give Her Informed Consent Prior to an Abortion; Require That Certain Information Be Provided or Made Available to a Female Prior to an Abortion; Require a Written Acknowledgement of Receipt of Such Information; Provide for the Preparation and Availability of Certain Information; Provide for Procedures in a Medical Emergency; Provide for Reporting Requirements and Penalties for Noncompliance; Provide for Anonymity of Certain Persons in Civil Actions; Provide for Related Matters; Provide for Severability; Provide for an Effective Date; Repeal Conflicting Law; and for Other Purposes

Georgia State University Law Review

HEALTH

Woman's Right to Know Act: Require Certain Types of Identification to Be Presented in Order for a Physician to Perform an Abortion; Change Provisions Relating to Required Participation by or Notice to Parents, Guardians, and Others and Court Proceedings for Waiver of Such Provisions; Provide That Abortions Must Be Performed in Certain Facilities and by Certain Persons; Provide for Certain Reports; Provide for Certain Forms; Provide for Certain Reports by the Department of Human Resources; Provide for Penalties and Remedies for Failure to Provide Such Reports; Enact the "Woman's Right to Know Act"; Provide for a Short Title; Provide for Definitions; Require That a Female Give Her Informed Consent Prior to an Abortion; Require That Certain Information Be Provided or Made Available to a Female Prior to an Abortion; Require a Written Acknowledgement of Receipt of Such Information; Provide for the Preparation and Availability of Certain Information; Provide for Procedures in a Medical Emergency; Provide for Reporting Requirements and Penalties for Noncompliance; Provide for Anonymity of Certain Persons in Civil Actions; Provide for Related Matters; Provide for Severability; Provide for an Effective Date; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 15-11-111 to -112, -114 (amended), 16-12-141 to -141.1 (amended), 31-9A-1 to -8 (new)
BILL NUMBER:	HB 197
ACT NUMBER:	400
GEORGIA LAWS:	2005 Ga. Laws 1450
SUMMARY:	The Act, known generally as the "Woman's Right to Know Act," requires that physicians inform women who are seeking an abortion, at least 24-hours prior to the abortion, of particular medical risks associated with the procedure, the probable gestational age of the unborn child, the medical

	risks associated with carrying the pregnancy to term, the availability of medical assistance benefits, and of the father's obligation to assist in child support. The Act further requires physicians performing abortions to inform their patients, more than 24-hours prior to the abortion procedure, of the availability of information describing the unborn child, listing agencies that offer alternatives to abortion, and information on fetal pain. The Act also amends parental notification requirements for unemancipated minors seeking abortions.
EFFECTIVE DATE:	May 10, 2005[1]

History

Prior to the enactment of this bill, the State of Georgia had no statute outlining exactly what information a physician must convey to a patient seeking an abortion before obtaining her informed consent to perform the procedure.[2] Twenty-six other states adopted similar informed consent measures, but House Democratic leaders blocked previous attempts at adopting such a bill in Georgia.[3] The November 2004 elections gave Republicans the numbers necessary to pass this type of legislation.[4] Abortion-related legislation enacted in Georgia prior to the Act includes a ban on partial-birth abortions and a law requiring parental notification (or a stand-in such as a relative—one standing *in loco parentis*) when a minor seeks an abortion.[5]

1. *See* 2005 Ga. Laws 1450, § 7, at 1461. The Act became effective upon approval by the Governor. *See id.*

2. *See* O.C.G.A §§ 31-9A-1 to -8 (Supp. 2005); Carlos Campos, *Abortion Foes Cheer House Vote*, ATLANTA J. CONST., Feb. 24, 2005, at A1.

3. Campos, *supra* note 2.

4. *Id.*

5. *Id.* This Act amends the parental notification requirement. *See* O.C.G.A § 15-11-112 (2005).

Bill Tracking of HB 197

Consideration by the House

Representatives Sue Burmeister, James Mills, Tommy Smith, Len Walker, and Barry Fleming of the 119th, 25th, 168th, 107th, and 117th districts, respectively, sponsored HB 197.[6] The House first read the bill on January 28, 2005.[7] The House Committee on Health and Human Services favorably reported the bill, by substitute, on February 18, 2005, and the House passed the bill on February 23, 2005.[8]

The Bill, As Introduced

The primary objective of HB 197 was to impose more stringent notice requirements on doctors who perform abortions.[9] The bill outlined what information a doctor must convey to a patient seeking an abortion for the doctor to deem that patient fully informed and able to consent to the procedure.[10] As introduced, the bill required doctors to inform their patients by telephone or in person, except in cases of medical emergency, at least 24-hours prior to an abortion, of the following information:

> [t]he particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility; . . . [t]he probable gestational age of the unborn child at the time the abortion is to be performed; . . . [t]he medical risks associated with carrying [the] child to term; . . . [t]hat medical assistance benefits may be available for prenatal care, childbirth, and neonatal care; . . . [t]hat the father is liable to assist in the support of [the] child, even in instances in which the father has offered to

6. *See* HB 197, as introduced, 2005 Ga. Gen. Assem.
7. *See* State of Georgia Final Composite Status Sheet, HB 197, Jan. 28, 2005 (May 11, 2005).
8. *See* State of Georgia Final Composite Status Sheet, HB 197, Feb. 18, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, HB 197, Feb. 23, 2005 (May 11, 2005).
9. *See* Campos, *supra* note 2.
10. *See* HB 197, as introduced, 2005 Ga. Gen. Assem.

> pay for the abortion; and . . . that [the patient] has the right to review . . . printed materials . . . [which] describe the unborn child, list agencies that offer alternatives to abortion, and contain information on fetal pain.[11]

The bill also required a patient to certify in writing that the doctor furnished to her all of the above information, and that the doctor informed her of the opportunity to review the information.[12] In addition, the bill provided a civil remedy for the patient, father of the unborn child, and parents of the patient against the doctor who performed the abortion when the doctor did not properly obtain consent.[13]

Prior to passage of the Act, the law required an unemancipated minor seeking an abortion to notify a parent, legal guardian, or person standing *in loco parentis* of her wish to undergo the procedure, unless a judge granted a judicial waiver.[14] HB 197 removed the "*loco parentis*" language and required minors seeking an abortion to notify either a parent or legal guardian, eliminating the option to have another adult, such as a grandparent or other relative, stand in the shoes of the minor's guardian.[15]

Committee Substitute

The House Committee on Health and Human Services reported favorably on HB 197 after offering a substitute to the original version.[16] The substitute made two major changes.[17] First, the Committee removed references to specific medical risks from the bill, including the requirement that doctors performing abortions inform women as to a possible relationship between having an abortion and

---

11. *Id.*

12. *Id.*

13. *See id.* Legislators referred to this part of the bill as the "right to sue" provision. *See* Carlos Campos, *Debate Set on Abortion Bill: Clash on Alleged Cancer Link Expected in Committee Today*, ATLANTA J. CONST., Feb. 17, 2005, at F4.

14. *See* 1988 Ga. Laws 661, §1, at 662-64 (formerly found at OCGA § 15-11-112 (2001)).

15. *See* HB 197, as introduced, 2005 Ga. Gen. Assem.

16. *See* HB 197 (HCS), 2005 Ga. Gen. Assem.; Carlos Campos, *Abortion Bill Drops Disputed Cancer Link*, ATLANTA J. CONST., Feb. 18, 2005, at A1; State of Georgia Final Composite Status Sheet, HB 197, Feb. 18, 2005 (May 11, 2005).

17. *Compare* HB 197, as introduced, 2005 Ga. Gen. Assem., *with* HB 197 (HCS), 2005 Ga. Gen. Assem.

developing breast cancer.[18] The House Committee substitute required instead that a doctor inform a patient of "particular medical risks to the individual patient associated with the particular abortion procedure to be employed, when medically accurate."[19] Secondly, the Committee eliminated the "right to sue" provision.[20] There was not much debate surrounding the removal of this provision, as even the bill's chief sponsor, Representative Burmeister, withdrew her support for the new civil remedy.[21]

The Committee removed the language pertaining to the link between abortions and breast cancer only after much controversy over whether there was sufficient scientific data to establish such a link.[22] Representative Burmeister, in supporting the provision, argued that the language in the original bill required doctors to inform patients of such a possible link only "when medically accurate," and that the ultimate decision would be left up to physicians exercising their best judgment and taking into account risk factors such as a genetic predisposition to breast cancer.[23] Ultimately, studies concluding there is no link between abortion and breast cancer coupled with further indications that studies purporting to establish such a link contained bias appeared to persuade the Committee to strike the provision.[24]

The House Committee approved the bill, as amended, by a vote of 18 to 7.[25]

Floor Debate and Amendments

During floor debates in the House of Representatives, two Democratic representatives, Mary Margaret Oliver of the 83rd district and Pam Stephenson of the 92nd district, proposed amendments, but

18. *Compare* HB 197, as introduced, 2005 Ga. Gen. Assem., *with* HB 197 (HCS), 2005 Ga. Gen. Assem.; *see also* Campos, *supra* note 16.

19. HB 197 (HCS), 2005 Ga. Gen. Assem.

20. *Compare* HB 197, as introduced, 2005 Ga. Gen. Assem., *with* HB 197 (HCS), 2005 Ga. Gen. Assem.; *see also* Campos, *supra* note 2.

21. *See* Campos, *supra* note 13.

22. *See* Campos, *supra* note 16; Campos, *supra* note 13.

23. *See* Campos, *supra* note 13.

24. *See generally id.* THE LANCET, a medical journal, reported that most studies conducted in the past, which concluded such a causal relationship does exist, were "biased, in that they ask women to report on their abortions after learning they have breast cancer." *Id.; see also* Campos, *supra* note 16.

25. *See* Campos, *supra* note 16.

the House rejected both changes.[26] Representative Oliver's proposal would have provided an exception to the informed consent requirements when the pregnancy was a result of rape or incest.[27] The House defeated this amendment by a vote of 90 to 81.[28] Representative Stephenson's amendment would have reinserted language permitting an unemancipated minor seeking an abortion to notify a person standing *in loco parentis* rather than a parent or legal guardian.[29] The amendment defined "person standing in loco parentis" as "a grandparent, an aunt, or an adult sibling."[30] The House defeated this amendment by a vote of 117 to 56.[31]

Upon conclusion of the floor debates and after the adoption of a few minor floor amendments, the bill passed with bipartisan support by a vote of 139 to 35.[32]

Consideration by the Senate

The Senate first read the bill on February 24, 2005.[33] The Senate Health and Human Services Committee reported favorably on the bill, without substitution or amendment, on March 2, 2005, and the Senate engrossed and passed the bill without amendment on March 4, 2005 by a vote of 41 to 10.[34]

Governor Sonny Perdue signed the "Woman's Right to Know Act" into law on May 10, 2005, making the State of Georgia the 27th state to adopt some form of an informed consent law for abortion procedures.[35]

---

26. *See* Failed House Floor Amendment to HB 197, introduced by Rep. Mary Margaret Oliver, Feb. 23, 2005; Failed House Floor Amendment to HB 197, introduced by Rep. Pam Stephenson, Feb. 23, 2005; *see also* Campos, *supra* note 2.

27. *See* Failed House Floor Amendment to HB 197, introduced by Rep. Mary Margaret Oliver, Feb. 23, 2005.

28. Georgia House Voting Record, HB 197 (Feb. 23, 2005).

29. *See* Failed House Floor Amendment to HB 197, introduced by Rep. Pam Stephenson, Feb. 23, 2005.

30. *Id.*

31. Georgia House Voting Record, HB 197 (Feb. 23, 2005).

32. Georgia House Voting Record, HB 197 (Feb. 23, 2005); State of Georgia Final Composite Status Sheet, HB 197, Feb. 23, 2005 (May 11, 2005); *see also* Campos, *supra* note 2.

33. *See* State of Georgia Final Composite Status Sheet, HB 197, Feb. 24, 2005 (May 11, 2005).

34. *See* State of Georgia Final Composite Status Sheet, HB 197, Mar. 2, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, HB 197, Mar. 4, 2005 (May 11, 2005); Georgia Senate Voting Record, HB 197 (Mar. 4, 2005).

35. *See* State of Georgia Final Composite Status Sheet, HB 197, May 10, 2005 (May 11, 2005); Campos, *supra* note 2.

Analysis

Public Opinion

Abortion is among the most politically and morally charged issues facing Americans today, with vigorous and often extreme advocates on both sides of the debate.[36] Proponents of the "Woman's Right to Know Act" cite many reasons for the necessity of the various provisions contained therein.[37] The parental notification requirement is necessary, proponents claim, to prevent adults from abusing minor girls.[38] Many argue that the prior law, which permitted another individual to bypass the parents and stand *in loco parentis*, protected those who victimized young girls.[39] Further, supporters cite the necessity of ensuring that doctors inform women about the choice to terminate their pregnancies, arguing that the Act will help women to make better choices by allowing them to have access to accurate and objective information regarding a decision that will have a permanent affect on their lives.[40]

Representative Len Walker supported the Act because he had "received letters from women who have suffered physically, emotionally, and psychologically as the result of having an abortion" and so that women will "receive some critical information concerning the potential long range effects of abortion."[41] Representative Burmeister has expressed concern about a woman's ability to make such a difficult choice, stating that "[w]omen are intelligent, but when you're emotional you're not thinking with the right part of the brain."[42] Representative Walker believes the new law may lead to fewer abortions, asserting that "with greater counseling on the part of the abortion provider a different decision might have been made" by

36. *See generally* National Right to Life Committee Website, http://www.nrlc.org/ (last visited Feb. 21, 2006); NARAL: Pro-Choice America Website, http://www.naral.org/ (last visited Feb. 21, 2006); Planned Parenthood Website, http://www.plannedparenthood.org/pp2/portal/ (last visited Feb. 21, 2006).

37. *See* Georgia Right to Life Website, *GRTL Legislative Priorities for 2005 Georgia General Session*, http://www.grtl.org/legislation.asp (last visited Feb. 21, 2006).

38. *Id.*

39. *Id.*

40. *Id.*

41. *See* Electronic Mail Interview with Representative Len Walker, House District No. 107 (June 13, 2005) [hereinafter Walker Interview].

42. *See* Editorial, *Women Must Vote to Save Choice*, ATLANTA J. CONST., Feb. 25, 2005, at A14, *available at* 2005 WLNR 2903969 (quoting Rep. Burmeister).

women who chose to have an abortion.[43] He also indicated that he "would favor further restrictions on abortion in the future."[44]

Opponents of the Act express concern about the deterrent effects it may have.[45] Many fear that the 24-hour waiting period will impose a significant hardship on women, particularly those of lower socioeconomic backgrounds.[46] For example, women who earn low wages may be disproportionately burdened by the law's waiting requirement because the Act will require them to take two days off of work—one to receive the informed consent materials and one to undergo the procedure.[47]

Additionally, many opponents of the Act fear that the new law will intentionally or unintentionally express moral opprobrium, which will emotionally traumatize already fragile individuals.[48] For example, receiving information pertaining to fetal development and alternatives to abortion may make an already difficult decision agonizing and even impossible.[49] Representative JoAnn McClinton of the 84th district believes "it is truly inflammatory when we are showing pictures like this to females who are already under undue stress," and this material is "projecting a particular ideology and not one necessarily followed by everyone."[50] Still, others have expressed concern about the message the Act sends with regard to the competence of women, retitling the "Woman's Right to Know Act" as the "Woman Too Stupid Too Know Act."[51] Opponents claim women are already aware of the alternatives to abortion and the information regarding fetal development.[52] If women are unsatisfied with the knowledge they have about these subjects, they are free to ask their physicians questions or research these subjects on their

43. *See* Walker Interview, *supra* note 41.
44. *Id.*
45. *See* Telephone Interview with Dr. Carrie N. Baker, Director of the Women's Studies Program at Berry College, in Mount Berry, Georgia (Apr. 18, 2005) [hereinafter Baker Interview].
46. *Id.*
47. *Id.*
48. *Id.*; *see also* Campos, *supra* note 16 (noting Rep. JoAnn McLinton's belief that certain pictures in pamphlets distributed to patients have the intention of convincing women not to have an abortion).
49. *See* Baker Interview, *supra* note 45.
50. *See* Campos, *supra* note 16 (quoting Rep. McClinton).
51. *See* Editorial, *supra* note 42.
52. *See* Baker Interview, *supra* note 45.

own.[53] The state should not force-feed them state-generated information regarding abortion.[54]

Opponents also fear that the state-generated information will contain bias, favoring the anti-choice position.[55] The concern is that in order to reflect a position that discourages abortion, the information will be inaccurate and will warn women of risks that are nonexistent or minimal, while unrealistically minimizing the risks associated with carrying a child to term.[56] For example, the portion of the Act indicating that abortion may cause breast cancer, which legislators removed prior to passage, perhaps damaged the credibility of the Act's proponents and bolstered claims that the Act would lead to the dissemination of biased and inaccurate information.[57]

Finally, opponents also are concerned with the state's interference in the doctor-patient relationship.[58] They have particular concern that the state government, which is composed of few individuals with any medical training, is telling trained and licensed physicians, specializing in the areas of gynecology and obstetrics, how to advise their patients.[59] This may force the physician to provide patients with information that, in his or her medical opinion, is unsound.[60] This may lead to less effective, accurate, or informed medical advice.[61] Medical advice, opponents argue, should come from medical professionals, not from the Georgia General Assembly.[62]

Constitutional Challenges

The Act faces potential federal Constitutional challenges on several grounds.[63] In *Planned Parenthood v. Casey*, the Supreme Court laid out the appropriate framework for the constitutional analysis of state statutes that restrict abortion.[64] Although the

53. *Id.*
54. *Id.*
55. *Id.*
56. *Id.*
57. *See* Campos, *supra* note 16.
58. *Id.*
59. *See* Baker Interview, *supra* note 45.
60. *Id.*
61. *Id.*
62. *Id.*
63. *See generally* Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992).
64. *See id.*

Supreme Court maintained "the essential holding of *Roe*," the Court cast aside the trimester framework set forth in the Court's landmark decision in *Roe v. Wade*.[65] In *Casey*, the Court set forth a new test for determining the constitutionality of state regulations of abortion: the undue burden test.[66] The Court held that states may regulate abortion in any manner they see fit, so long as they did not place an undue burden on the woman's ability to choose whether or not to terminate her pregnancy.[67] An undue burden on a woman's ability to choose to terminate her pregnancy "exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability."[68] However, the Court held that when the fetus reaches the stage of viability, the state's interest in abortion becomes compelling so that it can ban abortion altogether, provided it allows for exceptions in instances where carrying the child to term will jeopardize the mother's health or life.[69]

First, challengers may assert the parental notification requirement is unconstitutional on the basis that it places an undue burden upon the woman seeking an abortion in violation of her substantive due process rights.[70] Second, challengers may state the 24-hour waiting or "reflection" period that the statute requires poses an undue burden in violation of the substantive due process rights of the woman seeking an abortion.[71] Third, challengers may argue the provision requiring physicians to provide women with state-generated information regarding abortion procedures and its risks is unconstitutional on two grounds: 1) it impermissibly intrudes upon the patient-doctor

65. *See generally* Roe v. Wade, 410 U.S. 113 (1973) (holding that a woman had a fundamental right to terminate her pregnancy); *see also Casey*, 505 U.S. at 845-46, 878-79.

66. *Casey*, 505 U.S. at 878.

67. *Id.*

68. *Id.*

69. *Id.* at 878-79.

70. *See Casey*, 505 U.S. at 879-902. There, the challenged Pennsylvania statute closely resembled the new Georgia statute, in that it required women under the age of 18 to obtain parental consent to the procedure and required that physicians dispense certain information to the woman at least 24 hours prior to the procedure. *Id.* The Court in *Casey* upheld the parental notification requirement and the requirement of providing of certain information. *Id.* However, the Pennsylvania statute also had a provision requiring married women to obtain the consent of their husbands. *Id.* The Court invalidated this provision as an "undue burden" on a woman's right to make the decision to terminate her pregnancy. *Id.*

71. *See Casey*, 505 U.S. at 881-87 (rejecting this argument in the context of the Pennsylvania statute).

relationship in violation of the right to privacy, and 2) it impermissibly infringes upon the physician's right to free speech under the first amendment.[72]

The 24-hour waiting requirement is likely constitutional under *Casey*.[73] In *Casey*, the court upheld a Pennsylvania statue requiring that doctors give a woman certain medical information at least 24 hours prior to the abortion procedure, finding that this requirement was not an undue burden.[74] In fact, the Supreme Court specifically stated in *Casey* that "the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion."[75] But the Court cautioned that "[t]hese measures must not be an undue burden on the right."[76]

Likewise, the Court has upheld parental notification requirements as constitutional where the state provides for a judicial bypass procedure by which a young woman can avoid the requirement in particular circumstances, as is provided for in Georgia's law.[77] In *Ohio v. Akron Center for Reproductive Health Services*, a 1990 Supreme Court decision, the Court held that a statute requiring the notification of parents of minors seeking abortions was constitutional.[78] It is important to note that the Constitution likely requires a judicial bypass or another alternative means of obtaining an abortion without parental consent where states seek to require parental notification.[79] A statute that requires parental notification but makes no provision for avoiding that requirement in certain circumstances would likely be invalid.[80]

However, lower court decisions after *Casey* have called into question the Supreme Court's validation of parental notification

72. *See id.* at 883-85 (rejecting these arguments in the context of the Pennsylvania statute).

73. *Id.* at 881-87. *But see* City of Akron v. Akron Ctr. for Reproductive Health, Inc. 462 U.S. 416 (1983) (holding that a state's parental notification requirement and 24-hour waiting period requirement were unconstitutional less than ten years prior to the contrary holding in *Casey*).

74. *Casey*, 505 U.S. at 881-87.

75. *Id.* at 878.

76. *Id.*

77. *See* O.C.G.A. §§ 15-11-112, -114 (2005); *see also* Ohio v. Akron Ctr. for Reproductive Health, 497 U.S. 502 (1990).

78. Ohio v. Akron Ctr. for Reproductive Health, 497 U.S. 502 (1990).

79. *See, e.g.*, Bellotti v. Baird, 443 U.S. 622 (1979).

80. *Id.*

requirements.[81] For example, the Court of Appeals for the Ninth Circuit, in *Planned Parenthood of Southern Arizona v. Lawall*, invalidated a statute requiring parental notification where the judicial bypass procedure did not have sufficient time requirements.[82] Therefore, a successful constitutional challenge to the new Georgia statute is at least feasible, but such challenges, like those in *Lawall*, will likely center around the appropriateness of bypass procedures, and whether they are adequate to ensure that the statute does not place substantial obstacles in the way of the young woman seeking to terminate her pregnancy.[83]

Physicians have challenged abortion statutes, particularly those requiring that physicians dispense particular materials to patients, with little success.[84] For example, in *Case*, the Court declared the requirement that a physician inform women of the availability of particular information did not violate the physician's First Amendment free speech rights because a "physician's First Amendment rights not to speak are implicated . . . only as part of the practice of medicine, subject to reasonable licensing and regulation by the State."[85] Also, in *Casey*, the Court stated that requiring a physician to give particular information to the patient does not interfere "with a constitutional right of privacy between a pregnant woman and her physician . . . [because] the doctor-patient relation . . . is derivative of the woman's position . . . [and] does not underlie or override the two more general rights under which the abortion right is justified: the right to make family decisions and the right to physical autonomy."[86]

The Court has also overruled previous precedents finding that requiring physicians to dispense certain information with regards to abortion violated a woman's constitutional rights.[87] In *Casey*, the Court held that the requirement that a woman give informed consent to the abortion procedure was not an undue burden on the woman's

81. *See, e.g.*, Planned Parenthood of Southern Arizona v. Lawall, 180 F.3d 1022 (9th Cir. 1999).
82. *Id.* at 1027-32.
83. *Id.*
84. *See, e.g.*, Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 883-85 (1992).
85. *Id.* at 884.
86. *Id.* at 883-84.
87. *Id.* at 881-87.

right to choose to terminate her pregnancy.[88] The Court additionally overruled previous cases holding that requiring physicians to dispense particular government-generated materials relating to abortion was a constitutional violation to the extent that those cases found a "constitutional violation when the government requires, as it does here, the giving of truthful, nonmisleading information about the nature of the procedure, the attendant health risks and those of childbirth, and the 'probable gestational age' of the fetus."[89] Given the current composition of the Supreme Court and the decision in *Casey*, constitutional challenges to the new Georgia statute are unlikely to succeed.[90]

Benjamin Bailey
Amy Jett

88. *Id.* at 887.
89. *Id.* at 882.
90. *See generally Casey*, 505 U.S. 833.